

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT  
DISTRICT OF MASS.

NATIONAL RAILROAD PASSENGER  
CORPORATION,

Plaintiff,

03 Civ.

v.

5,103 SQUARE FEET OF LAND,  
LOCATED AT 40-46 HARVARD  
STREET, SITUATED IN WESTWOOD,  
MASSACHUSETTS; MORTIMER B.  
ZUCKERMAN AND EDWARD H. LINDE,  
TRUSTEES OF THE 40-46 HARVARD  
STREET TRUST, OWNERS; AND  
UNKNOWN OTHERS,

Defendants.

03 CIV 12440 DPW

DECLARATION OF TAKING

The National Railroad Passenger Corporation ("Amtrak"), pursuant to Section 305 (d) of the Rail Passenger Service Act, 49 U.S.C. § 24311, files this Declaration of Taking in the above-captioned matter and declares as follows:

1. Statement of the public use for which the property is taken: The property hereafter described is necessary to support Amtrak's provision of intercity rail passenger transportation service. Amtrak's right of way is immediately adjacent to the subject property.

2. A description of the property taken sufficient for identification: A description of the property is set forth in Exhibit A attached hereto and made a part hereof and is a description of the same property described in the Complaint in the above-captioned action.

3. Statement of estate or interest in the property: A permanent railroad easement subject to and with the benefit of easements, agreements and restrictions of record insofar as in force and applicable. There is also reserved to the fee owner of the property, its successors and assigns, rights (a) to construct and use for a railroad service to Lot 59 as shown on Land Court Plan 26294R spur tracks connecting with tracks within this railroad easement, subject to the requirements of public authority and to the reasonable regulations of Amtrak and subject to Amtrak's specifications and the approval of Amtrak's chief engineer, which approval shall not unreasonably be withheld; (b) to cross the railroad easement described above where necessary for access between parcels on either side thereof and to streets or ways; (c) to use, construct, repair and replace for such crossings, driveways flush with any tracks, subject to the approval of Amtrak's chief engineer, which approval shall not unreasonably be withheld; and (d) to use, construct, repair and replace utility lines, tunnels and bridges over or under said railroad easement, subject to the approval of Amtrak's chief engineer, which approval shall not unreasonably be withheld.

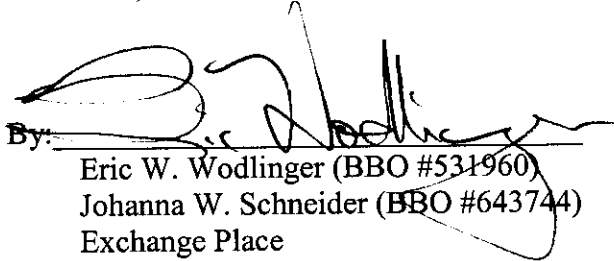
4. Plan showing the property taken: A plan of the property taken is attached as Exhibit B hereto.

5. Statement of the amount of money estimated by Amtrak to be just compensation for the interest taken in the property: Amtrak estimates \$51,000 as just compensation for the

interest taken. This sum is being deposited with the Clerk of this Court pursuant to 49 U.S.C. § 24311 (b) for the use and benefit of the persons and entities entitled thereto.

Respectfully submitted,

CHOATE, HALL & STEWART

By: 

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Dated: Boston, Massachusetts  
December 2, 2003